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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,168	01/11/2002	Donald Everett Curtiss	50103-388	5959

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EXAMINER

HECKENBERG JR, DONALD H

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/042,168

Applicant(s)

CURTISS ET AL.

Examiner

Donald Heckenberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13,15-17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 14 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The following is a quotation of the second paragraph of 35

U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5-6 and 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5-6 and 12-13 recite limitations directed only at the disk which is to be produced by the stamper module. The claims from which these claims depend are clearly apparatus claims directed towards the stamper module. It is well settled that the intended use of an apparatus is not germane to the issue of patentability of the apparatus. If the prior art structure is capable of performing the claimed use, then it meets the claim limitation(s). In re Casey, 370 F.2d 576, 580 152 USPQ 235, 238 (Cust. & Pat. App. 1967); In re Otto, 312 F.2d 937, 939, 136 USPQ 458, 459 (Cust. & Pat. App. 1963). As claims 5-6 and 12-13 define only aspects of the use of the apparatus, these claims are indefinite in that they do not define any further apparatus structure.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 9-13, 16-17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Krumholz (U.S. Pat. No. 5,272,904).

Krumholz discloses an apparatus comprising a first platen (11a) and a second platen (10), with the platens having surfaces arranged to oppose one another (figure 1). A ball joint is swivably connected with the first platen such that the ball joint is such that it swivels to orient the first platen parallel with the second platen during operation prior to completion of the pressing operation (see figure 3). The apparatus also comprises a pressure train configured to bring the first and second surfaces towards one another during operation (column 6, lines 3-10).

Claims 3-4 and 10-11 describe that the apparatus be configured for attaching a stamper or a disk. Written as such, these claims do not actually claim a stamper or a disk, but

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rather the apparatus be configured as to be able to attach such structures to the apparatus. The pressing apparatus disclosed by Krumholz is configured as such that a stamper or a disk could be attached to the platen (see for example, figure 2), and thus anticipates the claim limitations. Similarly, claim 17 in reciting that the apparatus be configured to replicate disks in different formats is anticipated by the structure disclosed by Krumholz.

As noted above in the rejection under 35 U.S.C. 112, second paragraph, claims 5-6 and 12-13 recite only limitations directed at the intended use of the apparatus, which is not germane to the issue of patentability of the claimed apparatus. Krumholz discloses a pressing apparatus with the claimed structural features as described above, and thus anticipates claims 5-6 and 12-13.

5. Claims 1-2, 5-9, 12-13, 15-17, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Venamuttu (U.S. Pat. No. 6,165,391).

Venamuttu discloses a molding apparatus for the manufacture of optical disks. The apparatus comprises a first and second platens (25 and 28) with the platens having surfaces arranged to oppose one another (see figure 4). The apparatus further

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comprises a ball joint (21 and 22) connected with the first platen at a portion opposite the first surface and centrally located with respect to the first platen (see figure 4). The apparatus is structure such that ball joint would swivel during stamping operation to orient the first and second surfaces of the platens parallel to one another prior to completion of the stamping operation. The apparatus also comprises a pressure train (30) configured to bring the first and second platens towards one another during stamping operation. Venamuttu further discloses the pressure train to be configured as such to produce stamping pressure between 5-15 Mpa during operation (see column 7, lines 25 - 62).

As noted above in the rejection under 35 U.S.C. 112, second paragraph, claims 5-6 and 12-13 recite only limitations directed at the intended use of the apparatus, which is not germane to the issue of patentability of the claimed apparatus. Krumholz discloses a pressing apparatus with the claimed structural features as described above, and thus anticipates claims 5-6 and 12-13.

6. Claims 14 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

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independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach or suggest a stamper module for optical disk replicating equipment comprising a first platen having a first surface, a second platen having a second surface, the first and second surfaces arranged opposed to one another, a ball joint connected to the ~~with the~~ first platen at a portion opposite the first surface, a pressure train configured to bring the first and second surfaces towards one another during a stamping operation, and wherein the ball joint swivels during a stamping operation to orient the first and second surfaces parallel to one another, and either (a) wherein the ball joint comprises a ball having a radius of approximately 20 inches or (b) wherein the ball joint includes an adjustable tension setting as recited in claim 18.

8. The following references are cited as being pertinent to the instant application:


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Arakawa et al. (U.S. Pub. No. 2003/0091781) discloses a optical disk replicating apparatus comprising a ball joint (118) swivably connected with a platen.

Japanese Pub. No. 2002-230852 discloses a optical disk producing apparatus.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Heckenberg whose telephone number is (703) 308-6371. The examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for responses to non-final action, and 703-872-9311 for responses to final actions. The unofficial fax phone number is (703) 305-3602.


Donald Heckenberg
May 30, 2003


JAMES P. MACKEY
PRIMARY EXAMINER
6/2/03